IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

CRL.A.No. 870 of 2006(C)

AGAINST THE JUDGEMENT/ORDER IN CRLP.184/2006 Dated 21/03/2006
ST.67/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-V, TRIVANDRUM

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APPELLANT: COMPLAINANT

V.SASIDHARAN NAIR,
SREE BHAVAN, T.C.19/1956, MUDAVANMUGHAL,
POOJAPPURA, THIRUVANANTHAPURAM.

BY ADV. SRI.ARUN VALENCHERY
SRI.S.MAHESH KUMAR

RESPONDENTS: ACCUSED

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1. RAMESAN.C., STATE BANK OF TRAVANCORE,
KERALA UNIVERSITY COMPOUND, PALAYAM,
THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No.870 of 2006

Dated this the 28th February, 2007.

J U D G M E N T

The appellant was the complainant before the court below, in S.T.No.67/2005, on the file of the Judicial First Class Magistrate Court-VI, Thiruvananthapuram. There was no representation. Therefore, the learned Magistrate dismissed the complaint and acquitted the accused. Hence, this appeal on obtaining leave of this Court.

2. The submission of the counsel for the appellant is that the case was originally stood posted on the file of the Additional Chief Judicial Magistrate Court. However, it was transferred, on administrative reasons, to the court of Judicial First Class Magistrate Court-VI, Thiruvananthapuram. The posting date of the case before the transferred court was not noted properly by the counsel. Therefore, when the case was taken up on 26.12.2005, there was no representation. Counsel submits that the case stood posted before the Additional Chief Judicial Magistrate Court, Thiruvananthapuram, on 3.2.2006.

3. Though the service is complete in respect of the first respondent, there is no representation. Therefore, I heard the learned counsel appearing for the appellant. In the circumstances of this case, I am inclined to give an opportunity to the parties to appear and contest the matter before the court below.

4. Hence, I set aside the impugned order, dated 26.12.2005 (the date of the impugned order is typed as, 'Monday the 26th day of 2005'), and restore S.T.No.67/2005, to the file of the Judicial First Class Magistrate Court-VI, Thiruvananthapuram.

5. The parties shall appear before the court below on 29.3.2007.

6. The learned Magistrate is directed to disposed of the matter, at the earliest, and in any case, within four months from the date of appearance of the parties before that court.

Criminal Appeal is allowed as above.

J.M. JAMES,
JUDGE

nj.